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8 OPERATING ENGINEERS HEALTH
& WELFARE TRUST FUND, et al.

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10 UNITED STATES DISTRICT COURT
11 FOR THE NORTHERN DISTRICT OF CALIFORNIA

12 GIL CROSTHWAITE, et al. as Trustees of the
OPERATING ENGINEERS HEALTH AND
13 WELFARE TRUST FUND, et al.,

14 Plaintiffs,

15 v.

16 DWITE C. FORBUSH, INC., a California
Corporation; and DWITE C. FORBUSH, an
17 individual,

18 Defendants.

Case No.: C08-5506 JSW

**JOINT REQUEST TO CONTINUE CASE
MANAGEMENT CONFERENCE**

Date: June 5, 2009
Time: 1:30 P.M.
Location: 450 Golden Gate Avenue
San Francisco, CA
Courtroom: 2, 17th Fl.

19 The parties hereto request that the case management conference now set for June 5, 2009 at
20 1:30 p.m. be continued for sixty (60) days for the following reasons:

21 1. On December 8, 2008, a Complaint was filed in this matter in pursuit of delinquent
22 contributions due to Plaintiffs' employee benefit plan Trust Funds for periods as specified therein.

23 2. The parties agreed to a payment plan, after Plaintiffs confirmed that all prior
24 payments made had been credited. A Judgment Pursuant to Stipulation was sent to Defendants for
25 execution, providing for the first payment to be made on or before May 25, 2009.

26 3. On April 22, 2009 Defendant Dwite Forbush contacted Plaintiffs' counsel to advise
27 that he wanted to meet with his Union representative to further review the amounts claimed due to
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1 the Trust Funds, before signing the Stipulation. He stated that he would nevertheless make the
2 May 25, 2009 payment as provided in the Stipulation.

3 4. Defendants report that they submitted the payment for \$2,000.00 to Plaintiffs'
4 administration office on May 25, 2009. Plaintiffs are in the process of verifying receipt thereof.

5 5. On or about April 16, 2009 an additional audit report of Defendants' records for the
6 period January 1, 2007 through February 28, 2009 added further amounts to Plaintiffs' claim. The
7 parties have arranged to meet on June 8, 2009 to discuss the findings therein and in the
8 Stipulation, to address Defendants' concerns as to the determination of some of the amounts
9 claimed due.

10 6. The parties will confer as to the total amounts due to Plaintiffs, and address any
11 further disputes Defendants may have as to amounts previously paid, credited, and remaining due.

12 7. The parties anticipate thereafter entering into a Stipulation, revised to reflect all
13 amounts agreed as due, after the discussion on June 8, 2009. In the alternative, Plaintiffs will
14 move the Court for entry of judgment as appropriate.

15 8. There is therefore no action necessary by the Court.

16 9. Plaintiffs respectfully request that the Case Management Conference be continued
17 for 60 days, to allow the parties to discuss, clarify and resolve any issues Defendants have with the

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1 amounts in Plaintiffs' claim, and that all previously set dates be vacated, pending Plaintiffs filing a
2 Stipulation or Motion within that time.

3 Dated: May 29, 2009

Dated: May 29, 2009

4 Saltzman & Johnson Law Corporation

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6 /s/ Dwite C. Forbush

/s/ Muriel B. Kaplan

7 Dwite C. Forbush
8 In Pro Per

Muriel B. Kaplan
Attorneys for Plaintiffs

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11 **IT IS SO ORDERED:**

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13 The Case Management Conference in this matter shall be continued to

14 August 7 2009 at 1:30 P.M., and all other previously set dates shall
15 be vacated, and reset at that time as necessary.

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18 Dated: June 1, 2009


19 UNITED STATES DISTRICT COURT JUDGE